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March 30, 2020

Hon. Vernon S. Broderick
United States District Judge
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

Re: *United States v. Joshua Gumora*
Docket No.: 20-CR-144

Dear Judge Broderick:

I am CJA counsel to Defendant Joshua Gumora. On March 24, 2020, I filed a motion seeking Mr. Gumora's pre-trial release with, among other conditions, the special condition of home confinement with electronic monitoring. I am concerned for Mr. Gumora's safety, given the conditions at the MCC relative to COVID-19 coupled with his [REDACTED] medical conditions. In the afternoon of March 24th, I supplied the Court with a brief supplement to my motion.

On March 25, 2020, the government filed a response in opposition to Mr. Gumora's motion. I write now to provide the Court with some additional information I have received since last week, which I believe further supports Mr. Gumora's motion for release. I also respectfully ask Your Honor to allow the parties to appear by telephone to be heard on Mr. Gumora's motion, as permitted by the CARES Act signed into law on Friday.

Since filing my motion, I have had an opportunity to communicate further with Mr. Gumora. He clarified for me that he not only suffers from [REDACTED]
[REDACTED]
[REDACTED] that place Mr. Gumora at a higher risk for developing serious complications if he contracts COVID-19.

When he was in the custody of NYC DOCS, Mr. Gumora was receiving four medications to treat his: [REDACTED]. Since

being transferred to federal custody, Mr. Gumora has consistently received only his [REDACTED] medication.

He was receiving [REDACTED] to treat his [REDACTED] until February 25, 2020, when the MCC was placed on lockdown while the institution tried to locate a firearm that had been smuggled into the facility. Since that date, Mr. Gumora has not received this vital medication. He has not received any medication for his [REDACTED] since arriving in federal custody, despite multiple requests.

[REDACTED]
[REDACTED]
[REDACTED] Since last week, the BOP has also published additional information regarding the number of inmates and staff who have been diagnosed with COVID-19. According to the BOP, 19 inmates and 19 staff have tested positive for the virus.¹ This includes three inmates and two staff members at MCC New York, where Mr. Gumora is housed.² Further, the first inmate in BOP custody has died from complications related to COVID-19³, further underscoring the danger posed to those inmates with underlying health conditions.

We suspect that the number of infected individuals at MCC is actually a great deal higher than the three identified by the BOP on its website. Without revealing any attorney-client confidences, we have come to learn that five inmates from Mr. Gumora's unit have been taken out with presumptive symptoms of COVID-19. Further, other inmates who are experiencing symptoms are reticent to report them because they fear being ostracized by other inmates and because they do not want to be forced into the SHU, which is the institution's plan for segregating infected inmates, without any ability to communicate with their families or attorneys.

Mr. Gumora's unit is currently locked in their cells 23 hours each day to try to limit the spread of the virus, but everyone is still fed together, placing the 96 inmates on Mr. Gumora's unit in close quarters with each other. Mr. Gumora reports being in close physical contact with those inmates who have already been removed from his unit for being symptomatic for COVID-19. Mr. Gumora also reports that while staff members have recently been provided with gloves and masks, inmates do not have access to any kind of protective equipment, and have had limited, if any, access to cleaning supplies. Mr. Gumora has been asking for soap for days but has not received any. According to Mr. Gumora, commissary was open on March 27, for the first time since February 20. Mr. Gumora used this opportunity to try to buy antibacterial soap but was not sent any. He has reported that the unit is supposedly being sent bottles of cleaning solution and rags, but the cleaning solution they have received is not an alcohol- or bleach-based cleaner.

While we readily acknowledge that Mr. Gumora has a poor criminal history that includes several convictions and warrants based on his failure to appear, we believe that, given the realities of the current health crisis, Mr. Gumora's lack of ties outside New York, his lack of money or

¹ <https://www.bop.gov/coronavirus/>

² *Id.*

³ First Known Federal Inmate Dies of Coronavirus, at <https://reason.com/2020/03/29/first-known-federal-inmate-dies-of-coronavirus/>

resources, and the requested condition of home confinement with electronic monitoring, he does not present a risk of flight or danger to the community. Further, we believe that Mr. Gumora's continued incarceration at the MCC New York presents a clear and present danger to his health—I dare say to his life—something that no human being should be forced to experience.

For the reasons stated above, as well as in our March 24, 2020 motion and supplement, we ask that the Court grant Mr. Gumora's release on bond with the condition of home confinement with electronic monitoring. In the alternative, we ask that the Court please schedule a teleconference so that the parties may further address the issues raised in Mr. Gumora's motion and the government's opposition.

I thank Your Honor for your consideration and wish everyone well.

Respectfully submitted,

/s/ Edward V. Sapone
Edward V. Sapone

cc: AUSA Daniel Wolf